

**IN THE EIGHTEENTH JUDICIAL DISTRICT
DISTRICT COURT, SEDGWICK COUNTY, KANSAS
CIVIL DEPARTMENT**

**DAVID REINSCHMIEDT, Personally And
On Behalf Of All Persons Similarly Situated,**

Plaintiff,

vs.

Case No. 99 C 2312

CITY OF WICHITA, KANSAS,

Defendant.

NOTICE OF CLASS ACTION

TO: All persons on the “time-to-pay” docket who had been released from probation or their period of probation had expired, and who were incarcerated (taken into custody) or ordered to work in the Wichita Work Program due to a case on this docket during the time period of July 31, 1997 to March 9, 2000. Pursuant to K.S.A. 60-223, you are hereby notified:

1. Class Action Claims

Your rights may be affected by the above-captioned lawsuit pending in this Court. Plaintiff, David Reinschmiedt, has brought a claim against the defendant, City of Wichita, Kansas, alleging that the defendant exercised jurisdiction, fined, assessed costs, arrested, detained and/or incarcerated persons on the “time-to-pay” docket in violation of 42 U.S.C. §1983 and the United States Constitution. Plaintiff seeks to recover the amount of fines and costs that were assessed and collected by the defendant. Plaintiff also seeks compensatory damages including loss of liberty, pain and suffering, mental anguish, and the amount of fines and costs for persons who were arrested, detained and/or incarcerated. The defendant denies these claims. The Court has approved a Class Action for the following persons:

All persons on the “time-to-pay” docket who had been released from probation or their period of probation had expired, and who were incarcerated (taken into custody) or ordered to work in the Wichita Work Program due to a case on this docket during the time period of July 31, 1997 to March 9, 2000.

2. Location of Lawsuit

The Class Action is currently pending in the District Court of Sedgwick County, Kansas. While the Court has approved the Class Action and underlying claims, the Court has not ruled on the merits of plaintiffs' claims or the denials and other defenses raised by the defendant. The purpose of this Notice of Class Action is to advise you of the class claim described in paragraph 1. This notice is not to be understood as an expression of any opinion by the Court as to the merits of any of the claims or defenses asserted by either side in this litigation, but is sent for the sole purpose of informing you of the pendency of this litigation so that you may make appropriate decisions as to steps you may wish to take in relation to this lawsuit.

3. Attorney Fees & Costs

If plaintiff achieves a recovery for the class, the Court will be asked to approve payment of litigation expenses and attorney fees to class counsel, which may be deducted from the total amount of recovery. If defendant prevails in the litigation, you will not be responsible for payment of costs or attorney fees.

4. Class Representatives & Class Attorney

The Court has approved David Reinschmiedt as class representative. The Court has also approved as attorneys for the Class the law firms of Palmer, Leatherman & White, L.L.P., 627 SW Topeka Blvd., Topeka, Kansas 66603, and Kiehl Rathbun, 727 N. Waco, Suite 275, Wichita, Kansas 67203.

5. Election By Class Members

If you come within the class of persons described in paragraph 1, you have a choice whether to remain a member of this Class Action and have the class representative and attorneys identified in paragraph 4 represent you. The choice you make will have consequences that you should understand before making your decision.

A. If you come within the class of persons described in paragraph 1, you will automatically become a Class Member unless you request to be excluded from the class in the manner indicated below. As such, if you wish to be a class member you are not required to do anything at this time. By remaining a class member, any claims you may have against the defendant for damages will be determined in this case and cannot be presented in any other lawsuit. As a member of the class, you will be bound by any result obtained by the class representative, whether favorable or unfavorable.

B. If you choose to be excluded from the Class Action described in paragraph 1, you must complete the enclosed "Exclusion Form" and return it to Clerk of the Sedgwick County District Court, Attention: Time-To-Pay Class Action Lawsuit, 525 North Main, Wichita, Kansas 67203, by mail postmarked no later than the 21st day of September, 2001. By making this election to be excluded: YOU WILL not be bound by any decision in this lawsuit, YOU MAY present any claims you have against the defendant by filing your own lawsuit, or YOU MAY seek to intervene in this lawsuit through your own counsel.

6. Rights and Obligations of Class Members

If you remain a member of this class:

A. Plaintiff will act as your representative and the law firms of Palmer, Leatherman & White, L.L.P., 627 SW Topeka Blvd., Topeka, Kansas 66603, and Kiehl Rathbun, 727 N. Waco, Suite 275, Wichita, Kansas 67203 will act as your counsel for the presentation of the claims against the defendant. If you desire, you may appear at any proceeding in person or by an attorney you have selected provided counsel enters an appearance prior to the final pretrial conference. You may also seek to intervene individually and may advise the court if at any time you consider that you are not being fairly and adequately represented by the designated class representative or the attorneys.

B. Your participation in any recovery, which might be obtained from the defendant through trial or settlement, will depend on the results of the lawsuit. If no recovery is obtained for the class, you will be bound by that result also.

C. You may be required as a condition to participating in any recovery to provide evidence of your involvement on the "time-to-pay" docket. You should therefore preserve documents concerning appearances, fines, costs, payments, arrests, detainments or incarcerations on the "time-to-pay" docket.

D. You will be entitled to notice and an opportunity to be heard regarding any proposed settlement or dismissal of the class claims. For this reason, and to participate in any recovery, you are requested to notify the Clerk of the Sedgwick County District Court and Class Counsel of any corrections or changes in your name or address.

7. Further Proceedings

Because of the discovery and other pretrial proceedings that remain to be done, trial of the case is not currently set. You may communicate with Class Counsel if you have evidence you believe would be helpful to establishment of the class claims, and you may be asked by the parties to provide information relevant to the case.

8. Additional Information

Any questions you have concerning the matters contained in this notice (and any corrections or changes of name or address) should NOT be directed to the Court but should be directed in writing to Class Counsel.

If you decide to remain a member of the class and wish to communicate with Class Counsel in this litigation, you may do so by writing the law firms of Palmer, Leatherman & White, L.L.P., 627 SW Topeka Blvd., Topeka, Kansas 66603, and Kiehl Rathbun, 727 N. Waco, Suite 275, Wichita, Kansas 67203.

The pleadings and other records in this litigation may be examined and copied at any time during regular office hours at the office of the Clerk of the District Court, Sedgwick Courthouse, 525 North Main Street, 6th Floor, Wichita, Kansas 67203.

10. **Reminder as to Time Limit**

If you wish to be excluded from the class described in paragraph 1, return the completed "Exclusion Request" to the Clerk of the Sedgwick County District Court by mail postmarked on or before September 21st, 2001.

Dated: _____

The Honorable Paul W. Clark

Enclosure:
Exclusion Request

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TO: Clerk of the Sedgwick County District Court
Time-To-Pay Class Action Lawsuit, Case No. 99-C-2312
525 North Main, 6th Floor
Wichita, KS 67203

REQUEST FOR EXCLUSION

Read the enclosed legal notice carefully before filling out this exclusion form.

After reading the Notice of Class Action dated July 12th, 2001 if you wish to remain a member of the class action against the City of Wichita, Kansas as identified in the Class Action Notice, attached, you should not mail in this form. By not mailing in this form, you will continue to be a member of the class action. On the other hand, if you elect not to remain a member of the class, you must sign and mail this form to the address shown at the top of this form, on or before September 21st, 2001.

The undersigned states that he/she has reviewed the Notice of Class Action, and hereby elects to be excluded as a member of the class. The undersigned understands that he/she will neither be bound by nor participate in any judgment rendered or settlement obtained in this matter, whether such judgments or settlements are favorable or adverse to the class.

Dated: _____

Name of Individual

Address of Individual

City, State, Zip

Signature